

Amendment in response to
June 18, 2007 Office action

Atty Dkt No.: 2000P07532US02
Serial No.: 09/742,696

REMARKS

Claims 1 – 20 stand rejected. Claims 2 – 6, 8 – 10, 23 – 15 and 17 – 20 remain in the application. Claims 1, 7, 11, 12 and 16 are canceled herein and rewritten as new claims 21 – 24. Claims 2, 5, 6, 8, 13 – 15 and 17 – 20 are amended herein. Although this Amendment is being timely filed, the Commissioner is hereby authorized to charge any fees that may be required for this paper or credit any overpayment to Deposit Account No. 19-2197.

Claims 1 – 6 and 17 are objected to for reciting “adapted to.” Responsive thereto, every instance of “adapted to” has been removed from the claims. Reconsideration and withdrawal of the objection to the claims is respectfully requested.

Claims 1 – 4 are rejected as being unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 6,446,127 to Schuster et al. in view of U.S Patent Publication No. 2003/0058,277 to Bowman – Amuah. Claims 5 – 16 and 18 are rejected as being unpatentable under 35 U.S.C. §103(a) over Schuster et al. and Bowman-Amuah in view of U.S. Patent No. 6,209,018 to Ben-Sachar et al. Claims 17, 19 and 20 are rejected as being unpatentable under 35 U.S.C. §103(a) over Schuster et al., Bowman-Amuah and Ben-Sachar et al. in further view of Official Notice.

Claims 1, 7, 11, 12 and 16 are canceled herein and rewritten for clarity and to better recite the invention, as new claims 21 – 24. Claims 21 – 24 are supported in the specification in general and in particular by independent claims 1, 7, 12 and 16; dependent claims 5, 11, 15 and 19; by Figures 1 – 3 and 5, and corresponding description. No new matter is added.

No reference of record shows or suggests the present invention as recited in claims 21 – 24. In particular, no reference of record shows or suggests “a telephony Internet server coupling a packet network to a private branch exchange, [with] external communications from said private branch exchange passing through said telephony Internet server,” as claim 21 recites, with

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analogous recitations in claims 22 – 24. While the Office action relies upon Official notice for part of this (“coupling a packet network to a private branch exchange”), the Office action acknowledges that none of the references mention this. “Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.” MPEP §2143.03 A.

In point of fact, what may seem obvious today in view of what is known and what is readily available today, would not necessarily “have been obvious at the time the invention was made” as required to establish *prima facie* obviousness under 35 U.S.C. §103(a). Hindsight is 20-20 and today, when broadband connection and high speed Internet is ubiquitous, coupling a packet network to a private branch exchange, is clearly advantageous. However, at the time of filing the present application and the provisional application upon which this application is based, most such connections were commonly made over a modem and phone line. How much advantage would one received connecting a private network with multiple lines over a 56K-baud modem? None! Accordingly, applicants believe to have shown that, “at the time the invention was made,” this was “not considered to be common knowledge or well-known in the art.” MPEP §2143.03 C. Therefore, “the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained.” *Id.*

Nor does any reference of record show or suggest “a software dispatcher in said telephony Internet server, said software dispatcher maintaining a list of all messages in said system and dynamically adding packet network software system application features to said private branch exchange;” as claim 21 further recites, with analogous recitations in claims 22 – 24. This is described in detail on page 4, lines 15 – 30.

No any reference of record shows or suggests “dispatcher clients, ... identifying to said software dispatcher particular messages for receipt;” as claim 21 further recites, with analogous recitations in claims 22 – 24. As a result of dispatcher clients identifying they receive, “each of

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said one or more software subsystems is unaware of respective identified destinations." Claim 13, lines 3 – 4.

Finally, no any reference of record shows or suggests the "software dispatcher managing listed messages in a pool of threads and sending messages to said plurality of dispatcher clients synchronously and asynchronously, said software dispatcher balancing system workload between said pool of threads" as claim 21 further recites, with analogous recitations in claims 22 – 24. This was recited in part in canceled dependent claim 11 and claims 5, 15 and 19 as well. Independent consideration and allowance of new claims 21 – 24 is respectfully requested.

Moreover, dependent claims include all of the differences with the references as the claims from which they depend. MPEP § 608.01(n) II and III ("The test for a proper dependent claim under the fourth paragraph of 35 U.S.C. 112 is whether the dependent claim includes every limitation of the claim from which it depends."). Therefore, since no any reference of record shows or suggests the present invention as recited by claims 21 – 24, claims 2 – 6, 8 – 10, 23 – 15 and 17 – 20, which are amended to depend from claims 21 – 24, are neither taught nor suggested by any reference of record. Reconsideration and withdrawal of the rejection of claims 2 – 6, 8 – 10, 23 – 15 and 17 – 20 under 35 U.S.C. §103(a) is respectfully requested.

The applicants thank the Examiner for efforts, both past and present, in examining the application. Believing the application to be in condition for allowance, both for the amendment to the claims and for the reasons set forth above, the applicants respectfully request that the Examiner withdraw the objection to claims 1 – 6 and 17, reconsider and withdraw the rejection of claims 2 – 6, 8 – 10, 23 – 15 and 17 – 20 under 35 U.S.C. §103(a), consider new claims 21 – 24 and allow the application to issue.

As the applicants have previously noted, MPEP §706 "Rejection of Claims," subsection III, "PATENTABLE SUBJECT MATTER DISCLOSED BUT NOT CLAIMED" provides in pertinent part that

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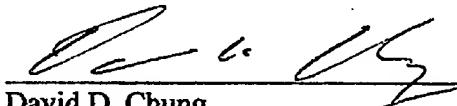
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If the examiner is satisfied after the search has been completed that patentable subject matter has been disclosed and the record indicates that the applicant intends to claim such subject matter, he or she may note in the Office action that certain aspects or features of the patentable invention have not been claimed and that if properly claimed such claims may be given favorable consideration.

(emphasis added). The applicants believe that the written description of the present application is quite different than, and not suggested by, any reference of record. Accordingly, should the Examiner believe anything further may be required, the Examiner is requested to contact the undersigned attorney at the telephone number listed below for a telephonic or personal interview to discuss any other changes.

Respectfully submitted,

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September 16, 2007
(Date)


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